

SENATE BILL 620

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2004 Regular Session
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By: **Senators Grosfeld, Astle, Britt, Conway, Della, Dyson, Exum, Forehand,
Frosh, Garagiola, Giannetti, Gladden, Hollinger, Hooper, Jones, Kelley,
Lawlah, McFadden, Middleton, Pinsky, Ruben, and Teitelbaum**

Introduced and read first time: February 6, 2004
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 8, 2004

CHAPTER _____

1 AN ACT concerning

2 **Money Follows the Individual Accountability Act**

3 FOR the purpose of requiring a nursing facility, under certain circumstances, to refer
4 a resident to the Department of Health and Mental Hygiene or its designee for
5 assistance in obtaining certain home- and community-based services; requiring
6 the Department or its designee to review certain quarterly assessments to
7 identify individuals indicating a preference to live in the community; requiring
8 the Department or its designee to provide residents referred or identified with
9 certain information, including certain rights, and with certain assistance,
10 including assistance in moving from a nursing facility to a certain
11 community-based setting; requiring a social worker to provide information
12 regarding how to obtain certain services and including a certain list; requiring
13 certain information to be made available to a resident at a certain time; altering
14 the format for the information; repealing a requirement for a social worker to
15 provide a certain referral; repealing certain requirements imposed on certain
16 long-term care case managers; altering the proof that certain employees or
17 representatives may be required to provide; requiring the Department to
18 provide, on or before a certain date, a certain report to the Governor and the
19 General Assembly; repealing certain reporting requirements; and generally
20 relating to home- and community-based services for residents of nursing
21 facilities.

22 BY repealing and reenacting, with amendments,
23 Article - Health - General
24 Section 15-135
25 Annotated Code of Maryland

1 (2000 Replacement Volume and 2003 Supplement)

2 BY repealing

3 Chapter 303 of the Acts of the General Assembly of 2003

4 Section 3

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Health - General**

8 15-135.

9 (a) (1) In this section the following words have the meanings indicated.

10 (2) "Nursing facility" has the meaning stated in § 15-132(a)(10) of this
11 subtitle.

12 (3) "Resident" means an individual receiving long-term care in a nursing
13 facility.

14 (b) (1) A social worker shall provide to [a] EACH resident [a one-page]
15 information [sheet] that:

16 (i) Explains the availability of services under home- or
17 community-based waiver programs in the State that could enable the resident to live
18 in the community;

19 (ii) Explains that if the resident's care is partially or fully
20 reimbursed by the Program, the resident may be able to receive long-term care
21 services in the community instead of in the nursing facility;

22 (iii) Provides information regarding [the referrals to residents that
23 may provide additional information,] HOW TO OBTAIN case management services[,]
24 or evaluation services related to home- and community-based waiver programs or
25 other options for receiving long-term care services in the community; [and]

26 (iv) [Is] IF WRITTEN, IS in large, easily legible type and in formats
27 accessible to the resident; AND

28 (V) INCLUDES A LIST OF LEGAL, ADVOCACY, AND GOVERNMENT
29 AGENCY RESOURCES.

30 (2) The Department, in consultation with the State agencies that
31 implement the home- and community-based services programs, shall prepare,
32 distribute, and update as necessary the [one-page] information [sheet] required
33 under paragraph (1) of this subsection.

34 (3) The [one-page] information [sheet] required under paragraph (1) of
35 this subsection shall be made available to the resident:

1 (i) Upon admission or discharge of the resident; and

2 (ii) [At least one time annually at the request of the resident]

3 WHEN THE RESIDENT INDICATES A PREFERENCE TO LIVE IN THE COMMUNITY,
4 EITHER DURING THE RESIDENT'S QUARTERLY ASSESSMENT OR AT ANY OTHER TIME.

5 (4) The social worker shall request that the resident sign an
6 acknowledgment of receipt of the information [sheet] provided by the social worker
7 that shall be kept in the resident's medical record.

8 [(c) If a resident is unable to contact outside entities without assistance, or a
9 resident requests assistance, the social worker shall refer the resident to persons
10 from the Department that can provide information or case management services that
11 will enable the resident to learn about receiving long-term care services in the
12 community.

13 (d) The long-term care case manager at a local department of social services
14 shall:

15 (1) Provide assistance to residents and make referrals to persons that
16 may help in obtaining additional information, case management services, or
17 evaluation services related to Medical Assistance waiver programs or other options
18 for receiving long-term care services in the community;

19 (2) Provide the same information to the resident's health care
20 representative or legal guardian; and

21 (3) Ensure that a copy of the information provided is kept in a resident's
22 client file.

23 (e) When a resident indicates an interest in receiving long-term care services
24 in the community, the long-term care case manager at a local department of social
25 services shall refer the resident within 10 days to persons that will provide
26 information or case management services that will enable the resident to consider the
27 options that may be available and apply for benefits if the resident chooses.]

28 (C) IF A RESIDENT INDICATES AN INTEREST IN OR A PREFERENCE FOR LIVING
29 IN THE COMMUNITY, THE NURSING FACILITY SHALL REFER THE RESIDENT TO THE
30 DEPARTMENT, OR THE DEPARTMENT'S DESIGNEE, FOR FURTHER ASSISTANCE.

31 (D) THE DEPARTMENT, OR THE DEPARTMENT'S DESIGNEE, SHALL REVIEW
32 THE QUARTERLY ASSESSMENTS SUBMITTED TO THE CENTER FOR MEDICARE AND
33 MEDICAID SERVICES OF THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
34 BY EACH NURSING FACILITY THAT PARTICIPATES IN THE PROGRAM TO IDENTIFY
35 INDIVIDUALS INDICATING A PREFERENCE TO LIVE IN THE COMMUNITY.

36 (E) THE DEPARTMENT, OR THE DEPARTMENT'S DESIGNEE, SHALL PROVIDE
37 RESIDENTS REFERRED OR IDENTIFIED UNDER SUBSECTIONS (C) AND (D) OF THIS
38 SECTION WITH:

1 (1) ADDITIONAL INFORMATION REGARDING HOME- AND
2 COMMUNITY-BASED SERVICES, INCLUDING SERVICES AVAILABLE UNDER A
3 MEDICAL ASSISTANCE WAIVER AND THEIR RIGHT TO ACCESS SERVICES UNDER §
4 15-137 OF THIS SUBTITLE; AND

5 (2) ASSISTANCE IN:

6 (I) COMPLETING ANY APPLICATION FORMS OR PROCESS, AS
7 NEEDED; AND

8 (II) MOVING FROM A NURSING FACILITY TO A COMMUNITY-BASED
9 SETTING APPROPRIATE TO THE RESIDENTS' NEEDS AND EXPRESSED WISHES.

10 (f) (1) Subject to paragraph (3) of this subsection, employees or
11 representatives of protection and advocacy agencies and of centers for independent
12 living shall have reasonable and unaccompanied access to residents of public or
13 private nursing facilities in the State that receive reimbursement under the Program
14 for the purpose of providing information, training, and referral to programs and
15 services addressing the needs of people with disabilities, including participation in
16 programs that would enable individuals with disabilities to live outside the nursing
17 facility.

18 (2) Employees or representatives of protection and advocacy agencies
19 and of centers for independent living shall maintain the confidentiality of the
20 residents and may not disclose the information provided to a resident, except with the
21 express consent of the resident or the resident's legal guardian or health care
22 representative.

23 (3) Public or private nursing facilities may require the employees or
24 representatives of protection and advocacy agencies and of centers for independent
25 living to provide proof of their employment [and training] before authorizing the
26 access required under paragraph (1) of this subsection.

27 (G) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT SHALL
28 REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY, IN ACCORDANCE WITH §
29 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:

30 (1) THE DEPARTMENT'S EFFORTS TO PROMOTE HOME- AND
31 COMMUNITY-BASED SERVICES;

32 (2) THE NUMBER OF NURSING FACILITY RESIDENTS REFERRED OR
33 IDENTIFIED UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION IN THE PREVIOUS
34 YEAR;

35 (3) THE NUMBER OF NURSING FACILITY RESIDENTS WHO
36 TRANSITIONED FROM NURSING FACILITIES TO HOME- AND COMMUNITY-BASED
37 WAIVER SERVICES;

1 (4) ANY OBSTACLES THE DEPARTMENT CONFRONTED IN ASSISTING
2 NURSING HOME RESIDENTS TO MAKE THE TRANSITION FROM A NURSING FACILITY
3 TO A COMMUNITY-BASED RESIDENCE; AND

4 (5) THE DEPARTMENT'S RECOMMENDATIONS FOR REMOVING THE
5 OBSTACLES.

6

Chapter 303 of the Acts of 2003

7 [SECTION 3. AND BE IT FURTHER ENACTED, That on or before January 1
8 of each year, the Secretary of Health and Mental Hygiene shall submit a report to the
9 General Assembly, in accordance with § 2-1246 of the State Government Article, and
10 to the Department of Legislative Services on:

11 (1) State efforts to promote home- and community-based services under this
12 Act; and

13 (2) the number of individuals who have transitioned from nursing homes to
14 home- and community-based waiver services.]

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 July 1, 2004.